

2009

Ronald D. Ellsworth v. Workforce Appeals Board, Department of Workforce Services : Reply Brief

Utah Court of Appeals

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Ronald D. Ellsworth; Petitioner.

Michael R. Medley; Attorney for Respondent.

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IN THE UTAH COURT OF APPEALS

<u>Ronald D. Ellsworth</u>)	Case No.: 20090552-CA
Petitioner,)	Reply to Brief of the Respondent
vs.)	Petition for review
<u>Workforce Appeals Board,</u>)	Agency No. <u>09-B-00445</u>
<u>Department of Workforce Services</u>)	<u>09-B-00446</u>
Respondent)	

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Attorney for Respondent
Workforce Appeals Board
Department of Workforce Services
140 East 300 South
P.O. Box 45244
Salt Lake City, UT 84145-0244
Respondent

Ronald D. Ellsworth
5611 Berwick Court
Discovery Bay, CA 94505-1404
Petitioner

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Jurisdiction of Appellate Court

This Court has jurisdiction pursuant to Utah Code Ann. §78-2a-3(2)

Statement of the Issues

1. Did respondent consider all the relevant facts and circumstances, and if they did could a valid claim be filed with any agency except DWS?

Standard of review: de novo review

Supporting Authority: 35A-1-104 (12), 63G-4-403

Grounds for seeking review of issue not preserved in respondent record: Respondent failed in their duty and responsibility to conduct a reasonable inquiry of facts and circumstances. The agency erroneously interpreted or applied the law; the agency action is based upon determinations of fact, made or implied by the agency, that are not supported by relevance; the agency action is an abuse of the discretion delegated to the agency by statute. Salient facts, circumstances, and particulars of situation were not considered by respondent.

2. Does respondent have authority over alleged infractions in states outside their jurisdiction?

Standard of review: de novo review, arbitrary and capricious, reasonable

Supporting Authority: Utah Code 63G-4-403(4)(d)(h)(i)(iv), 35A-4-405 (6), 35A-1-104 (12)

Grounds for seeking review of issue not preserved in respondent record: Self evident. Salient facts, circumstances, and particulars were not considered. The agency erroneously interpreted or applied the law; the agency action is based upon determinations of fact, made or implied by the agency, that are not supported by relevance; the agency action is an abuse of the discretion delegated to the agency by statute and is otherwise arbitrary or capricious.

3. Did respondent deny benefits claimant (RE) was entitled to?

Standard of review: de novo review, arbitrary and capricious

Supporting Authority: 35A-4-405 (6), 35A-1-104 (12), 63G-4-403 (4) (c), (g), (h)(i)

Grounds for seeking review of issue not preserved in respondent record: Respondent failed in their duty and responsibility to conduct a reasonable inquiry of facts and circumstances. The agency did not decide all of the overriding issues requiring resolution; the agency action is based upon determinations of fact, made or implied by the agency, that are not supported by relevance; the agency action is an abuse of the discretion delegated to the agency by statute and is otherwise arbitrary or capricious. Salient facts, circumstances, and particulars of situation were not considered.

Petitioner additionally adopts and incorporates the original Petitioner brief submitted to the Court.

Determinative Statutes, Rules, And Authorities

35A-1-104. Department authority.

Within all other authority or responsibility granted to it by law, the department may:

(12) provide training and educational opportunities for its staff.

63G-4-501. Civil enforcement.

(3) In a proceeding for civil enforcement of an agency's order, in addition to any other defenses allowed by law, a defendant may defend on the ground that:

(a) the order sought to be enforced was issued by an agency without jurisdiction to issue the order

(b) the order does not apply to the defendant

(c) the defendant has not violated the order

Title 63G [63-46b-16]. 63G-4-403. Judicial review.

(4) The appellate court shall grant relief only if, on the basis of the agency's record, it determines that a person seeking judicial review has been substantially prejudiced by any of the following:

(c) the agency has not decided all of the issues requiring resolution;

(d) the agency has erroneously interpreted or applied the law;

(g) the agency action is based upon a determination of fact, made or implied by the agency, that is not supported by substantial evidence when viewed in light of the whole record before the court

(h) the agency action is:

- (i) an abuse of the discretion delegated to the agency by statute;
- (iv) otherwise arbitrary or capricious.

35A-4-405. Ineligibility for benefits.

(6) For any week with respect to which or a part of which the claimant has received or is seeking unemployment benefits under an unemployment compensation law of another state or the United States. If the appropriate agency of the other state or of the United States finally determines that the claimant is not entitled to those unemployment benefits, this disqualification does not apply.

R994-401-301. Partial Payments – General Definition

(4) Reportable earnings which a claimant must report on the weekly claim include any and all wages, remuneration, or compensation for services even if the employer is not required to pay contributions on these wages.

U.S. Dept. Of Labor UI Benefit Accuracy Measurement CY 2006 Report

Statement of the Case

Nature of Case, Course of Proceedings, and Disposition

DWS refused UI benefits for RE in January, 2009 and incorrectly assessed an overpayment penalty for payments received in 2008.

DWS alleges that claimant (RE) was not entitled to UI benefits and was also untruthful when completing the weekly application form, therefore a fraud was caused. RE challenged the allegations as misguided and rampant speculation, wrong-headed, assumption,

and 2nd guessing and timely appealed for ALJ and then for WAB review of the DWS determination.

Dispositions of ALJ and WAB were to affirm the DWS conclusion based solely on internally generated records with no attempt to know, understand, or apply the underlying facts and circumstances.

Statement Of Facts

- a. Claimant (RE) was correctly directed to file a claim with DWS. Research done later by RE proved this was the valid claim.
- b. When CA EDD became aware of their error claimant benefits were cancelled. Surprised by this action and still totally ignorant of UI rules and law RE tried to reach an EDD agent by phone as instructed for multi-state workers on their web site. It took weeks and at least 100 attempts to get through to a live agent. That the CA EDD might have paid benefits for which RE was not entitled is perfectly understandable if you have had claimants experience with these agencies.
- c. The fact that respondent is attempting to capitalize on CA EDD's alleged mistake by opportunistically exploiting the situation is NOT understandable.
- d. No valid claim could be filed in CA or any place else except with DWS, the applicable circumstance being that RE voluntarily resigned from a job to take the job in Salt Lake City for a Utah based employer.

- e. RE was compelled to research UI rules because respondent declined to offer any insight or ask any questions regarding to the circumstances: not in the handbook, not by the impartial ALJ, not by the impartial WAB.

Summary of the Argument

1. RE apologizes for not being psychic as are all other claimants, as respondent asserts.
2. Nothing that happened within CA EDD changes the fact that the DWS claim is valid. RE could not have a valid claim anywhere but with respondent.
3. Respondent did not understand, or simply disregarded, all the rules they are charged with knowing and hopes inexperienced claimants won't find them out.
4. While RE fervently believes the proper course of action for respondent is to apologize for their mistakes respondent practices jurisdiction over imaginary or factual infractions that take place in any locality - anywhere. Really? If a parking ticket is received in San Francisco can Salt Lake City collect a fine for that offense? Or, if you speed only in NV should you be ticketed by the UT Highway Patrol? Maybe, but RE is unable to find a code or clause that states that is so, or states that is not so as regards the respondent.

Argument

Petitioner followed all department instructions.

Petitioner is entitled to UI benefits.

Petitioner additionally adopts and incorporates the original Petitioner brief submitted to the Court.

A. To the clear-headed there is no issue as asserted by respondent: “did claimant knowingly withhold material info to obtain benefits to which he was not entitled?”, and citing all the superfluous cases on record that aren’t even relevant doesn’t change the fact that the claim is valid and respondent jumped the gun without even a rudimentary investigation into the state of affairs, in the spirit of a zero tolerance policy that forbids pens and pencils on the school grounds because they have points.

a. Interstate workers may well unknowingly break the rules should they qualify for UI in more than a single state but this case is clear cut – there was no alternative for a valid claim except with DWS. This inexperienced claimant was surprised many times, starting with the revelation that there really is a Federal rule covering valid claims - followed by voluminous misrepresentations based on guesswork at best by respondent. It was not until 2009 that RE was proficient enough in the various codes to discover the CA EDD claim was not valid, the reason CA EDD had cut off unemployment benefits. Respondent has access to all that information via shared databases and actively concealed it from RE.

B. Respondent Brief “argument point I” pushes the flawed reasoning that a fraud was perpetrated against DWS. Indeed, a fraud certainly could not have been against respondent, unbeknownst to the petitioner or not, as only a half-hearted investigation would have resulted in the proper conclusion that the DWS claim was valid, the EDD claim was not.

a. As regards reporting of “material facts” which may not be completely defined anywhere, to whom would RE be responsible to report? Assuming RE had a reason to think something needed to be reported, that would be CA EDD, not DWS. It was EDD that correctly directed RE to DWS for a proper claim. When EDD then paid benefits they offered no clue that the payment could be improper in any respect.

C. Respondent also erroneously argues the issue is about the same separation. Not a possibility, even EDD knows better than to pay benefits for a job completed by an employer based in UT, where all fees and taxes were paid into the DWS coffers! Another of the many, many misrepresentations and flawed speculations by respondent which any responsible agency would want to understand before going off half-cocked (lacked adequate thought or preparation).

a. The CA EDD was considering the position that was departed voluntarily in May, 2007, not the job that was concluded in 2008.

D. In respondent argument Point II it is asserted their supporting competent evidence, all internally generated with all the self-serving speculation related thereto, was

not appropriately introduced and addressed by claimant in accordance with some unrelated trial court citation.

- a. In petitioner brief Statement of Facts the following statement was incorporated, verbatim: "Petitioner adopts and incorporates by reference the records of the case dated 9 September, 2009 submitted to the Court by Respondent Certification of Record, with the following facts:" and proceeded to address seven specifics, expanding upon them and many others in body of brief Argument.
- b. Petitioner brief is limited to 50 pages making it impossible to fully address all the errors, untruths, misinformation, and speculation supported solely by a mystifying point of view, forcing the taking of a random sample of the many opportunities for dispute in the brief. That is probably why it is called a "brief".
- c. Additionally, as directed by the court, the WAB case record wherein 19 errors and misrepresentations were noted by petitioner (there are more and the count continues to mount) was attached as Addendum C, as well as Addendum D, a legible copy of the claimant appeal to WAB, wherein petitioner laments "I am truly disappointed that I have to explain the law to the very people that should be explaining it to me".
- d. There was no trial court, unfortunately. If there had been this action would have been duly finished and the Court of Appeals would not be burdened

with it now. Respondent wants nothing to do with such a proceeding as they would be unable to present a case that would hold water. The “competent evidence” argument is just another misrepresentation of fact by respondent.

E. Brief of Respondent “argument point II” additionally pushes the flawed reasoning there was no evidence to dispute respondents assertions. Circumstantial evidence and fact alone, each on its own merit, and callously unobserved by respondent, satisfies any need for evidence.

- a. Clearly respondent failed to get the desired answers to support their actions from the CA EDD or that would have been shouted at the court - and respondent certainly has better access to EDD records than RE could ever have.
- b. Or perhaps respondent thinks it inconceivable that a 70 year old person would be in need of any prescription medications or has weak vision?
- c. Maybe respondent wishes RE to prove the voluntary departure on a Friday before starting a new job the following Monday was not a layoff, which would have qualified RE for unemployment compensation in CA? That scenario would require RE to find and be offered a job on the following day, Saturday, make flight, hotel, and car reservations at the same time, fly to Salt Lake City, pick up a car and check into the hotel on Sunday, then

start the job the following day, Monday. The probability of that scenario is nil, leaving the voluntary resignation as the only possible option.

- d. It is self evident the circumstances were never considered. Respondent clearly chose instead to go on a Witch Hunt, applying the antiquated principle of the water test in which if you drown you are innocent and if you float you are guilty - and then executed. This exposes reprehensible similarity to the inquisition. RE views it as simply a manifestation of superciliousness with perhaps a measure of age discrimination whipped in.

F. Respondent further argues that RE did not answer the questions in the weekly filing system truthfully. Nothing could be farther from the truth than that argument. UT R994-401-301 (4) clearly does not include unemployment benefits as reportable earnings, and all questions were indeed answered truthfully.

G. The **BAM** estimate of the improper UI denial rate is 15.3 percent, U.S. Dept. Of Labor UI **Benefit Accuracy Measurement** CY 2006 Report. The 15.3% represents only the reported improper denials. Actual % is doubtless double that and for this respondent it could easily be four times that, given the extremely self-serving miniscule allotment of time in which claimants are allowed to launch an appeal.

H. Results of claimant efforts in UT helped preserve the jobs of upwards of 200 employees that otherwise could still very well be on the DWS unemployed rolls. Over a period of 6 months that could easily translate to more than \$1,000,000 in unemployment benefits that DWS did NOT pay out. Without an economic recov-

ery of some significance that figure could soon easily total 5-10 times as much.

As a Vietnam era Vet RE can readily relate to ingratitude and disrespect similar to respondent behavior.

I. As for the Railroad question, assuming it is relevant to somebody, a more fitting breakdown would be:

1. Have you worked for the railroad for 5 years or more?
2. Are you receiving or expecting to receive a railroad pension or annuity?

And finally: Are you receiving or expecting to receive Unemployment Benefits from another state? Or, simply follow the latest example that appeared on the CA EDD site in late Jan.-early Feb. 2009 and DUMP the railroad question altogether.

Conclusion and Relief Sought

Conclusions:

1. The agency did not decide all of the overriding issues requiring resolution; the agency erroneously interpreted or applied codes and rules that may or may not be applicable, the agency action is based upon a determination of fact made by the agency that is not supported by relevance not disclosed in the self-serving internal records, the agency action is an abuse of the discretion delegated to the agency by statute and is otherwise arbitrary or capricious.
2. Salient facts, circumstances, and particulars of situation were not considered.

3. Respondent failed in their duty and responsibility to conduct a reasonable inquiry of facts and circumstances.
4. A faulty claim does not invalidate a valid claim.
5. There was no overpayment by DWS.
6. Respondent has proven that:
 - a. Respondent systematically abuses authority.
 - b. Completely disregarding ethical values respondent exploits and capitalizes on claimant ignorance of the undisclosed guidelines that could facilitate proper and correct conclusions that would be favorable to claimants, based on facts and circumstances – not self-serving speculation. This is inexcusable.
 - c. Respondent disregards facts brought to the table by claimants in their fervor to meet internal goals. This is inexcusable.
 - d. Respondent somehow gained the trust of the authorities meant to keep them under control and proceeded to abuse that trust.
 - e. Respondent is incapable of, unwilling to, or lacks sufficient curiosity to conduct even a rudimentary investigation of salient facts and circumstances that might contribute to impartiality and apposite intelligent assessment of the facts and circumstances. This is inexcusable. No attempt was made to consider, let alone understand, the circumstances and particulars.

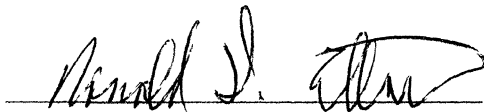
- f. Respondent proficiently makes all the mistakes except the ones necessary to get it right.
- g. Respondent employs the “end justifies the means” standard in meeting their goals. This is inexcusable.

Relief Sought:

This Court is asked most respectfully to set aside the action of the WAB and to affirm the merits of Petitioner’s claims by:

- a. Directing the decision affirming retroactive denial of the April, 2008 claim for *benefits and assessment of an overpayment penalty* be set aside.
- b. Directing the decision affirming denial of the Jan. 2009 claim for benefits be set aside and back UI benefits be paid.
- c. Directing that all extended UI plan benefits be paid to RE.
- d. Directing that any and all additional monetary damages and compensation payable to petitioner be paid to the extent authorized by law.

Respectfully submitted this 21st day of December, 2009.

A handwritten signature in black ink, appearing to read "Ronald D. Ellsworth", written over a horizontal line.

Ronald D. Ellsworth

Certificate Of Service

I certify that a true and correct copy of the foregoing brief was mailed
by first class mail this December 21, 2009 to the following:

Michael R, Medley

Attorney for Respondent

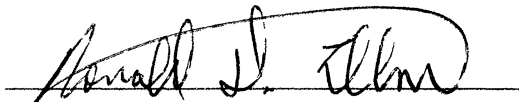
Workforce Appeals Board

Department of Workforce Services

140 East 300 South

P.O. Box 45244

Salt Lake City, UT 84145-0244

A handwritten signature in black ink, appearing to read "Ronald D. Ellsworth", is written over a horizontal line.

Ronald D. Ellsworth

Hertz PG 3 OF 3 #01RT RR 576096102



TO BE CHARGED TO:
VISA XXXXXXXXXXXX1045 < AUTH S 686 00/357978

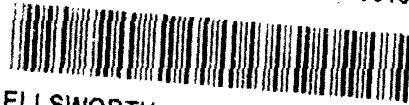
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If You decline Loss Damage Waiver (LDW), which is optional, You may be responsible for any loss or damage to the Car regardless of fault -- see Par. 4 of the Rental Agreement Terms And Conditions, which appear on the folder (GN1900005) delivered to You with this Rental Record (the Rental Terms). Coverage for all or part of Your responsibility may be provided by Your own auto insurance or under your credit card agreement. By signing below, You acknowledge that You have read, understand, accept and agree to the above and the Rental Terms, and You accept or decline the Optional Services as shown on Card 1 and Card 2.

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RONALD ELLSWORTH

VEHICLE 02193/2783330 UTSAL11 0217011
LIC UT 078PAB CLS Q4 MILES OUT 5880 07 FORESTER 4X4 N
TK CAP 15.9 FUEL OUT 816
STALL F D 326

RENTED: 05/06/07 16:38 @ SALT LAKE CITY INT'L A/P
RETURN: 05/18/07 20:00 @ SALT LAKE CITY INT'L A/P
You agree to pay charges at the rates and in the amounts that appear on the left of the table below. Taxable charges are denoted by a T, and additional details about some charges appear beneath the table. Hertz's estimates of Your total charges appear on the right of the table below. Hertz's estimates assume (1) You will rent and return the vehicle at the times and places indicated, (2) if a mileage charge applies, You will drive no more than the distance indicated and (3) You will not incur any charges that either are listed below opposite **** or cannot be calculated until return. If any of these assumptions is incorrect, additional charges or charges at higher rates may apply.

CHARGE RATE / AMOUNT	CHARGE ESTIMATE
TIME / MILEAGE CHGS: RATE PLAN - JLWW	CLASS - C
2 @ \$ 208.99 / WEEK WITH ALL MILES FREE	\$ 417.98
UBTOTAL	T\$ 417.98

OPTIONAL CHARGES

FEES FOR ANY ADDITIONAL AUTHORIZED OPERATORS NOT INCLUDED.

T\$ ****

OPTIONAL SERVICES

0 ACCEPTED

T\$ 44.98

X / FEES

NON-RENTAL FEE RECOVERY	9.25%	T\$ 42.82
RECOVERY		T\$ 9.49
1. 16.350% ON EST. TAXABLE TTL \$ 515.27		\$ 84.24

TOTAL ESTIMATED CHARGE

\$ 598.51

Addendums

Aerotek Two Week Notice

April 19, 2007
Nicole Furtado
Recruiter
Aerotek
2099 Gateway Place #750
San Jose, CA 95110
Re: Two week notice

Dear Nicole,

Effective Friday May 4, 2007 I am leaving my position with the BSC project in accordance with our discussion of April 18.

I have enjoyed working with this team and look forward to working with you on future projects as well.

If there is anything I can do to help you out in the meantime, please let me know.

Sincerely,

Ron Ellsworth



Salt Lake - City Center
285 West Broadway
Salt Lake City, UT 84101
801-355-3300



RONALD ELLSWORTH
5611 BERWICK CT
DISCOVERY BAY CA CA 94514-1404
GE

Room: 142 CORC
Room Type: ONBR
No. Of Guests: 1
Rate: 109.00
Clerk: GAJ

Arrive	06May07	Time	05:13p	Depart	13May07	Time	09:43a	Folio#	10-71406
Date	Reference Number	Description						Charges	Credits
----- [Folio charges for 06May07 through 13May07] -----									
06May07	J4142	Room Charge-Studio						109.00	
06May07	T2142	State Occupancy Ta						13.86	
07May07	J4142	Room Charge-Studio						109.00	
07May07	T2142	State Occupancy Ta						13.86	
08May07	J4142	Room Charge-Studio						109.00	
08May07	T2142	State Occupancy Ta						13.86	
09May07	J4142	Room Charge-Studio						109.00	
09May07	T2142	State Occupancy Ta						13.86	
10May07	J4142	Room Charge-Studio						109.00	
10May07	T2142	State Occupancy Ta						13.86	
11May07	J4142	Room Charge-Studio						109.00	
11May07	T2142	State Occupancy Ta						13.86	
12May07	J4142	Room Charge-Studio						109.00	
12May07	T2142	State Occupancy Ta						13.86	
** BALANCE **								860.02	

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Sunday, May 6, 2007
Delta Air Lines # 1842

Sacramento International (SMF) to Salt Lake City International (SLC)
Departure (SMF): May 6, 1:12 PM PDT (afternoon)
Arrival (SLC): May 6, 3:42 PM MDT (afternoon)

Class: Economy

Seat assignment: choose seats

Friday, May 18, 2007
Delta Air Lines # 485

Salt Lake City International (SLC) to Sacramento International (SMF)
Departure (SLC): May 18, 9:00 PM MDT (evening)
Arrival (SMF): May 18, 9:41 PM PDT (evening)

Class: Economy

Seat assignment: choose seats

Purchase Confirmation

Passenger: RONALD ELLSWORTH
Airline ticket number(s): 0067135734400
Ticket type: electronic (e-ticket)

Total airfare: \$259.79 (including taxes)
Service fee: \$4.99
Total trip cost: \$264.78 USD

Unless otherwise specified, all costs are provided in US dollars.



Add a hotel



Add Attractions
& Services



CheapTickets extras

You have purchased
**Airline Ticket
Protector** for the
following traveler(s):
Ronald D Ellsworth

You should have received a separate confirmation e-mail detailing your policy. Please be sure to carry a copy of that confirmation with you on your trip. If you need any assistance with your travel protection, please contact Access America at **800-269-9726**.
See additional coverage options

Prescriptions, Partial

☐ Enroll Rx 1102308 in AutoFill

2008/12/12 14:59:37

ELLSWORTH, RONALD

12/12/2008

Rx# 1102308 OHNT MC-PH

1227

(dur)



COPAY: \$30.00

FLOMAX 0.4 MG CAPSULE SA

COMMON USE(S) FOR THIS DRUG: This medication is used to treat the symptoms of a prostate gland condition called BPH (benign prostatic hyperplasia, also known as enlarged prostate). Tamsulosin is an alpha-blocker that works by relaxing the muscles in the bladder neck and prostate. Relaxing these muscles leads to relief of symptoms of BPH such as the feeling of needing to urinate frequently or urgently, weak stream, difficulty in beginning the flow of urine, and the need to urinate during the middle of the night. This medication should not be used to treat high blood pressure.

HOW TO TAKE THIS MEDICATION: Read the Patient Information Leaflet provided by your pharmacist before you start taking tamsulosin and each time you get a refill. If you have any questions, consult your doctor or pharmacist. Take this medication by mouth, usually once daily. Take the first dose at bedtime to minimize the chances of getting dizzy or fainting. After the first dose, take your regularly scheduled dose 30 minutes after the same meal each day, or take exactly as directed by your doctor. Swallow this medication whole. Do not crush, chew, or open the capsules. The dosage is based on your medical condition and response to therapy. Use this medication regularly in order to get the most benefit from it. To help you remember, take it at the same time each day. If you have not taken this drug for several days, contact your doctor to re-establish your dosing schedule. To minimize side effects, you will be restarted at the lowest dose. Then the dosage will be gradually increased. It may take up to 4 weeks to notice an improvement in symptoms. Inform your doctor if your symptoms do not improve after 4 weeks or if they worsen.

POSSIBLE SIDE EFFECTS: Dizziness, unusual weakness, drowsiness, trouble sleeping, blurred vision, runny nose, or problems ejaculating may occur. If any of these effects persist or worsen, tell your doctor or pharmacist promptly. Remember that your doctor has prescribed this medication because he or she has judged that the benefit to you is greater than the risk of side effects. Many people using this medication do not have serious side effects. Tell your doctor immediately if any of these unlikely but serious side effects occur: fainting, vision changes. Tell your doctor immediately if this rare but very serious side effect occurs: fast heartbeat. In the unlikely event you have a painful or prolonged erection lasting 4 or more hours, stop using this drug and seek immediate medical attention, or permanent problems could occur. A very serious allergic reaction to this drug is rare. However, seek immediate medical attention if you notice any symptoms of a serious allergic reaction, including: rash, itching, swelling, severe dizziness, trouble breathing. This is not a complete list of possible side effects. If you notice other effects not listed above, contact your doctor or pharmacist. Contact your doctor for medical advice about side effects. The following numbers do not provide medical advice, but in the US you may report side effects to the Food and Drug Administration (FDA) at 1-800-FDA-1088. In Canada, you may call Health Canada at 1-866-234-2345.

PRECAUTIONS: Before taking tamsulosin, tell your doctor or pharmacist if you are allergic to it; or to other alpha-blockers such as alfuzosin, doxazosin or terazosin; or to sulfa drugs; or if you have any other allergies. Before using this medication, tell your doctor or pharmacist your medical history, especially of: prostate cancer, blood pressure problems. To avoid dizziness or fainting, get up slowly from a lying or seated position, especially when you first start taking this drug or if your doctor changes your dosing. Also, when you first start taking this drug, avoid situations where you may be injured if you faint. This drug may make you dizzy or drowsy or cause blurred vision. Use caution while driving, using machinery, or doing any activity that requires alertness or clear vision. Limit alcoholic beverages. Before having surgery (including cataract eye surgery), tell your doctor or dentist that you are taking this medication. Caution is advised when using this drug in the elderly because they may be more sensitive to the effects of this drug, especially dizziness. This medication is not recommended for use in women or children.

DRUG INTERACTIONS: Your doctor or pharmacist may already be aware of any possible drug interactions and may be monitoring you for them. Do not start, stop, or change the dosage of any medicine before checking with your doctor or pharmacist first. Before using this medication, tell your doctor or pharmacist of all prescription and nonprescription/herbal products you may use, especially of: drugs for male erectile problems (e.g., sildenafil, tadalafil, vardenafil), other alpha-blocker drugs (e.g., doxazosin, prazosin), high blood pressure drugs, "blood thinners" (e.g., warfarin), drugs affecting liver enzymes that remove tamsulosin from your body (such as cimetidine, azole antifungals including ketoconazole, macrolid antibiotics including erythromycin, rifamycins including rifabutin, St. John's wort). Tell your doctor or pharmacist if you also take drugs that cause drowsiness such as: anti-anxiety drugs (e.g., diazepam), antihistamines that cause drowsiness (e.g., diphenhydramine), anti-seizure drugs (e.g., carbamazepine), medicine for sleep (e.g., sedatives), muscle relaxants, narcotic pain relievers (e.g., codeine), psychiatric medicines (e.g., phenothiazines such as chlorpromazine or tricyclics such as amitriptyline), tranquilizers. Check the labels on all your medicines (e.g., cough-and-cold products) because they may contain ingredients that cause drowsiness. Ask your pharmacist about the safe use of those products. This document does not contain all possible interactions. Therefore, before using this product, tell your doctor or pharmacist of all the products you use. Keep a list of all your medications with you, and share the list with your doctor and pharmacist.

NOTES: Do not share this medication with others. Keep all medical appointments. Laboratory and/or medical tests (e.g., prostate exams, prostate-specific antigen or PSA) should be performed periodically to monitor your progress or check for side effects. For more information, consult your doctor.

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08/03/2009
Prescriber: KASSELS MICHAEL D
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PATIENT PRESCRIPTION INFORMATION
IF YOU HAVE ANY QUESTIONS ABOUT YOUR
MEDICATION PLEASE CONTACT YOUR PHARMACIST
JACQUE R LOHMEIER RPh

For faster refills, phone in 24 hours in advance

Keep Out of Reach of Children

This is a WHITE, ROUND shaped TABLET imprinted with RE 21 on the front

ATENLOLOL ORAL (ah TEN oh-lol)
COMMON BRAND NAME(S):

Tenormin
WARNING

If you have chest pain (angina) or have heart disease (e.g., coronary artery disease, ischemic heart disease, high blood pressure), do not stop using this drug without first consulting your doctor. Your condition may become worse when the drug is suddenly stopped. If your doctor decides you should no longer use this drug, you must gradually decrease your dose according to your doctor's instructions. When gradually stopping this medication, it is recommended that you temporarily limit physical activity to decrease the work on the heart. Seek immediate medical attention if you develop worsening chest pain, tightness or pressure in the chest, chest pain spreading to the jaw/neck/arm, sweating, trouble breathing, or fast/irregular heartbeat.

USES

This medication is a beta blocker used to treat chest pain (angina) and high blood pressure. It is also used after an acute heart attack to improve survival. High blood pressure reduction helps prevent strokes, heart attacks and kidney problems. This drug works by blocking the action of certain natural chemicals in your body such as epinephrine on the heart and blood vessels. This results in a slowing of the heart rate, blood pressure, and strain on the heart.

HOW TO USE:

Take this medication by mouth, usually once daily, or as directed by your doctor. Use this medication regularly in order to get the most benefit from it. To help you remember, use it at the same time each day. This drug is not effective if you use it only when chest pain or a migraine headache occurs. It is very important to take this medication regularly as prescribed to help prevent these conditions. The dosage is based on your medical condition and response to therapy. It may take one or two weeks before the full benefit of this drug takes effect. It is important to continue taking this medication even if you feel well. Most people with high blood pressure do not feel sick. Do not suddenly stop taking this medication without consulting your doctor. Your condition may become worse when the drug is suddenly stopped. Refer to the Warning section.

SIDE EFFECTS

You may experience dizziness, lightheadedness, drowsiness, tiredness, nausea, diarrhea, unusual dreams, leg pain, or vision problems as your body adjusts to the medication. If any of these effects persist or worsen, notify your doctor or pharmacist promptly. This drug may reduce blood flow to your hands and feet, causing them to feel cold. Smoking may worsen this effect. Dress warmly and avoid tobacco use. Remember that your doctor has prescribed this medication because he or she has judged that the benefit to you is greater than the risk of side effects. Many people using this medication do not have serious side effects. Tell your doctor immediately if any of these unlikely but serious side effects occur: symptoms of a very slow heartbeat (e.g., persistent dizziness, fainting, unusual fatigue), bluish discoloration of the fingers and toes, numbness/tingling/swelling of the hands or feet, decreased sexual ability, reversible hair loss, mental/mood changes, achings/swollen joints, butterfly-shaped rash on the nose and cheeks, trouble breathing, cough, unexplained or sudden weight gain, increased thirst, increased urination. Tell your doctor immediately if any of these highly unlikely but very serious side effects occur: easy bruising or bleeding, persistent sore throat or fever. In the unlikely event you have an allergic reaction to this drug, seek medical attention immediately. Symptoms of an allergic reaction include: rash, itching/swelling (especially of the face/tongue/throat), severe dizziness, trouble breathing. This is not a complete list of possible side effects. If you notice other effects not listed above, contact your doctor or pharmacist. In the US, Call your doctor for medical advice about side effects. You may report side effects to FDA at 1-800-FDA-1088. In Canada, Call your doctor for medical advice about side effects. You may report side effects to Health Canada at 1-866-234-2345.

PRECAUTIONS

Before taking atenolol, tell your doctor or pharmacist if you are allergic to it, or to other beta-blockers (e.g., metoprolol, propranolol), or if you have any other allergies. This medication should not be used if you have certain medical conditions. Before using this medicine, consult your doctor or pharmacist if you have: certain types of irregular heartbeats (e.g., sinus bradycardia, second or third degree atrioventricular block), cardiogenic shock, severe heart failure (overt or decompensated type), a certain type of tumor (untreated pheochromocytoma). Before using this medication, tell your doctor or pharmacist your medical history, especially of heart failure (treated, compensated type), breathing problems (e.g., asthma, chronic obstructive lung disease), diabetes, overactive thyroid disease, hyperthyroidism, kidney disease, blood circulation problems (e.g., Raynaud's disease), mental/mood disorders (e.g., depression), certain muscle disease (myasthenia gravis). Before having surgery, tell your doctor or dentist that you are taking this medication. If you have diabetes, this medication may mask the fast/pounding heartbeat you would usually feel when your blood sugar level falls too low (hypoglycemia). Other symptoms of a low blood sugar level such as dizziness or sweating are unaffected by this drug. This drug may make you dizzy or drowsy; use caution engaging in activities requiring alertness, such as driving or using machinery. Limit alcoholic beverages. To minimize dizziness and lightheadedness, get up slowly when rising from a seated or lying position. This drug should be used only when clearly needed during pregnancy. Discuss the risks (e.g., low birth weight) and benefits with your doctor. This drug passes into breast milk and may have undesirable effects on a nursing infant. Consult your doctor before breast feeding.

DRUG INTERACTIONS

Your doctor or pharmacist may already be aware of any possible drug interactions and may be monitoring you for it. Do not start, stop or change the dosage of any medicine before checking with them first. Before using this medication, tell your doctor or pharmacist of all prescription and nonprescription products you may use, especially of alpha-blockers (e.g., prazosin) and diabetic drugs (e.g.,

See also the How to Use section. Your healthcare professionals (e.g., doctor or pharmacist) may already be aware of any possible drug interactions and may be monitoring you for it. Do not start, stop, or